01-08-03 $176

Docket No. **1416.01** *PATENTS* #2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jan Phillippe Eiras et al.

Serial No.: **10/065,793**

Filed: **11/19/2002**

For: **MESSAGE TRAFFIC INTERCEPTION SYSTEM**

Art Unit: **2176**
Director: **Unknown**

Director's Office
Assistant Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL OF PETITION TO MAKE SPECIAL

1. Transmitted herewith is a Petition to Make Special for this application.

FEE DEFICIENCY

2. If any additional extension and/or fee is required, charge Deposit Account No. 500745.

Signature of Practitioner

Reg. No. 41,849
Tel. No.: (727) 507-8558

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CERTIFICATE OF MAILING
(37 C.F.R. § 1.10)

I HEREBY CERTIFY that this correspondence is being deposited with the United States Postal Service in an envelope as "Express Mail Post Office to Addressee," mailing Label No. **EL401413168US**, addressed to: Director's Office, Assistant Commissioner for Patents, Washington, D.C. 20231 on **January 7, 2003**.

Nicole S. Carnell
Nicole Carnell

Docket No. **1416.01** *PATENTS*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Jan Phillippe Eiras et al.**
Application No.: **10/065,793** Group No.: **2176**
Filed: **November 19, 2002** Examiner: **Unassigned**
For: **Message Traffic Interception System**

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER M.P.E.P. section 708.02, VIII

1. Petition

Applicant hereby petitions to make this new application, which has not received any examination by the Examiner, special.

2. Claims

All the claims in this case are directed to a single invention. If the Office determines that all the claims presented are not obviously directed to a single invention, then applicant will make an election without traverse as a prerequisite to the grant of special status.

3. Search

Undersigned attorney in the following areas has made a search of:

Field of search: Class 370, subclasses 241 and 242; and keyword searches.

Patent References:

Inventor	Patent Number	Year
Cohoe et al.	6,108,309	2000
Pauna	6,052,524	2000
Cain	6,028,846	2000
Bunza	5,838,948	1998
Sauvage	6,163,881	2000
Johner et al.	4,311,882	1982
Ritchie, Jr. et al.	5,790,523	1998
Anderson et al.	5,850,386	1998
Smith et al.	5,889,864	1999
Murphy	5,892,756	1999
Jukl et al.	5,962,460	1999
Matsuura	6,023,581	2000
Pugaczewski et al.	6,069,873	2000
Magiros et al.	6,081,509	2000
Antoniu et al.	6,301,227	2001
Darcie et al.	20010038611	2001

Amann	4,161,627	1979
Beaven	5,627,766	1997
Choi et al.	5,897,609	1999

4. Copy of references

There is submitted herewith a copy of the references deemed most closely related to the subject matter encompassed by the claims.

Also attached is Form PTO-1449. (PTO/SB/08A and 08B)

5. Detailed discussion of the references

There is submitted herewith a detailed discussion of the references, which discussion particularly points out how the claimed subject matter is distinguishable over the references.

Applicant claims a computer program product for message traffic interception comprising: (1) a computer-readable medium; (2) a protocol independent API core module stored on the medium, the API core module having an array of predetermined rules for intercepted message traffic; and (3) an interface communication emulator module communicatively coupling protocol-specific message traffic to the API core. The following discussion of the references points out with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Section 102 of the United States Patent Laws provides in relevant part:

> A person shall be entitled to a patent unless . . . the invention was known or used by others in this country, or patented or described in a written publication in this or a foreign country . . .

None of references obtained in the prior art search disclose or describe Applicant's invention as most broadly claimed to include (1) a computer-readable medium; (2) a protocol independent API core module stored on the medium, the API core module having an array of predetermined rules for intercepted message traffic; and (3) an interface communication emulator module communicatively coupling protocol-specific message traffic to the API core.

Section 103 of the United States Patent Laws provides in relevant part:

> A patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

No combination of references obtained in the prior art search teach or suggest Applicant's invention.

U.S. Patent No. 6,108,309 to *Cohoe et al.* describes a network simulator for testing purposes. The '309 patent does not anticipate or suggest the present invention which is protocol independent and not tied to TCP/IP (Col. 2, line 46 of the '309 patent). The present invention advances the art over the '309 patent wherein the simulations developed for one protocol are portable across the API.

U.S. Patent No. 6,052,524 to *Pauna* describes a system for simulation of integrated hardware

and software components (Col. 4, lines 31-32). This reference is strictly for a hardware simulator. The approach taken specifically addresses the need for integrating electronic devices at the component level. At this level, devices do not "communicate" in the same way that is meant by communication as used in the present invention. Devices such as integrated circuits, central processing units (CPUs), random access memory (RAM), etc. communicate via electrical signals rather than messages or data streams. This concept is intended to provide tools for simulation and testing at the board level rather than the system level. In addition, the system described in this patent is strictly one for simulation of missing components. The present invention as claimed provides that type of functionality for missing components of large systems, but not for missing electronic components of a single system. The present invention is not directed to the behavior of electronic devices at this level, but rather with the large-scale interactions of complex systems.

U.S. Patent No. 6,028,846 to *Cain* describes a system for testing real-time delivery of packets of data in an application utilized in a computer network having a plurality of local area network segments and a plurality of network conditions associated with each of the plurality of local area network segments (Col. 2, lines 1-5). This system is designed to exercise the network protocols (TCP, IP, UDP) on an Ethernet network. It is concerned with packet routing, network loading, and reliability concerns. It does not address the actual communication between the units under test except insofar as it is affected by the timing issues involved in network delays and misrouted packets in an impaired WAN. The present invention is not directed towards testing the network or communications protocol itself, but to provide testing, simulation, and off-nominal creation at the application level of the protocol.

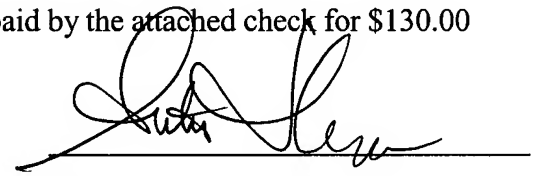
U.S. Patent No. 5,838,948 to *Bunza* describes a system for testing and analyzing electronic systems, including a target microprocessor and the software that runs on it (Col. 1, lines 58-60). This reference is similar to the '524 patent where it describes a system for simulating a specific component of an electronic sub-assembly. In this case, it is a hardware/software In-Circuit Emulator (ICE) in which the behavior of the CPU emulation is controlled by a software

simulation rather than a firmware, microcode, or electrical definition. Because this system addresses board-level components, it does not anticipate or suggest the present invention. The '948 reference would be unsuited to the simulations performed by the present invention, as the present invention is targeted specifically for the interfaces between complex system elements rather than individual electronic components.

The remaining references are provided to demonstrate the scope of the search.

6. Fee

The fee required by 37 C.F.R. 1.17(i) is to be paid by the attached check for $130.00



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